

REMARKS

This application has been reviewed in light of the Office Action dated September 26, 2003. Claims 41-60 are pending in the application. By the present amendment, claims have been amended 41, 46, 47, 50, 54 and 59. No new matter has been added. The Examiner's reconsideration of the rejection in view of the amendment and the following remarks is respectfully requested.

The Applicant notes with appreciation the telephonic interview granted by the Examiner on November 4, 2003. An interview summary has not yet been received. During that interview, the Examiner noted that the Dube reference would be overcome (U.S. Patent No. 5,422,127 to Dube et al.) by positively reciting a feature related to a mix or baked product in the claim. The independent claims have been amended in a way believed to sufficiently reflect this. The Examiner also stated that she would consider an affidavit of commercial success after final, if a final rejection is made.

The Applicant has amended the claims to clarify the invention. The claim amendments are believed not be narrowing the scope nor relinquishing any equivalents, but instead are made to clarify the invention in view of the Examiner's comments. These amendments are made to further prosecution of the present case to afford protection of the sales of current product lines and are not intended to limit the scope of the invention, and the right to file a continuation application is hereby reserved.

By the Office Action, claims 41-60 stand rejected as being unpatentable in view of U.S. Patent No. 5,422,127 to Dube et al. (Dube) and U.S. Patent No. 5,711,982 to Takemori et al. (Takemori).

As discussed with the Examiner in the telephone interview, Dube is directed to a composition which preserves vitamin D in storage. The present invention is completely different in at least its use and its form.

The Examiner stated that this reference would be overcome if the claims were clarified. The clarifications have been made and are hereby submitted for the reconsideration by the Examiner.

In one example, claim 41 of the present invention, includes, *inter alia*, a food composition ... comprising: a baked product mix.

Neither reference alone or in combination provides a baked product mix or a baked product which employs the mix having the elements recited in the claims. Instead, Takemori employs a delactose milk powder suitable for use with candy and chocolates while Dube provides a vitamin D stabilizer. While the combination can rightfully be made regarding stabilizing vitamin D (Dube) during storage of a de-lactosed milk powder (Takemori), the present invention is not disclosed or suggested by the cited combination. The references fail to disclose or suggest at least a food composition ... comprising: a baked product mix or a baked good or snack bar.

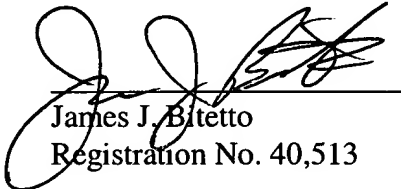
It is therefore respectfully requested that the rejection be reconsidered and that the case be permitted to proceed to allowance by allowing the present claims. Since the cited combination fails to disclose or suggest the present invention, claims 41, 50 and 59 are believed to be in condition for allowance for at least the reasons stated.

The Examiner is invited and encouraged to contact the undersigned to discuss the case further.

In view of the foregoing amendments and remarks, it is respectfully submitted that all the claims now pending in the application are in condition for allowance. Early and favorable reconsideration of the case is respectfully requested.

It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant's representatives Deposit Account No. 50-1433.

Respectfully submitted,

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